

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

DAVID P. DONOVAN,

Plaintiff,

v.

BETH A. WILKINSON,

Defendant.

Civil Action No. 1:20-cv-1344

Sealed Reply to David Donovan's Response In Opposition To Praecipe

In his response in opposition to Mr. Wilkinson's praecipe, Mr. Donovan attached an incomplete email record of the parties' meet and confer prior to the filing of the praecipe. In particular, he attached, as Exhibit 2 to his response, email correspondence showing his and the Team's objections to the praecipe, but omitting the responses sent by Ms. Wilkinson's counsel prior to their filing of the praecipe. While Ms. Wilkinson does not see the utility in Mr. Donovan's and the Team's practice of attaching email correspondence between counsel to their pleadings, to the extent those emails are of use to the Court, it should have the full correspondence. We therefore attach that correspondence as Exhibit 1 and Exhibit 2 to this reply.

Dated: June 10, 2021

Respectfully submitted,

Beth Wilkinson

By: s/ Thomas G. Connolly
Thomas G. Connolly (VA Bar No. 29164)
Thomas B. Mason (*pro hac vice*)
Jared Paul Marx (VA Bar No. 91213)
HARRIS, WILTSHERE & GRANNIS, LLP

1919 M Street NW, 8th Floor
Telephone: (202) 730-1300
Fax: (202) 730-1301
tconnolly@hwglaw.com
tmason@hwglaw.com
jmarx@hwglaw.com

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true copy of this document to be served via ECF and by email on all parties.

Dated: June 10, 2021

/s/ Thomas G. Connolly
Thomas G. Connolly

EXHIBIT 1

From: Jared P. Marx
To: "Stuart.Nash@hklaw.com"; "Cathy.Hinger@wbd-us.com"; Thomas Connolly; "john.brownlee@hklaw.com"; "Claire.Rauscher@wbd-us.com"
Cc: Tom Mason; "Lela.Ames@wbd-us.com"
Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx
Date: Wednesday, June 2, 2021 1:00:00 PM
Attachments: [2021-06-02 Dkt 215 Praecipe re Ex W6.pdf](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)

All – please find attached the praecipe, as filed. Also, I mistakenly noted below the date [REDACTED]

From: Jared P. Marx
Sent: Wednesday, June 2, 2021 12:27 PM
To: 'Stuart.Nash@hklaw.com' <Stuart.Nash@hklaw.com>; Cathy.Hinger@wbd-us.com; Thomas Connolly <TConnolly@hwglaw.com>; john.brownlee@hklaw.com; Claire.Rauscher@wbd-us.com
Cc: Tom Mason <tmason@hwglaw.com>; Lela.Ames@wbd-us.com
Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

Stuart,

Ms. Wilkinson is not now [REDACTED]

[REDACTED]

The Team may prefer that Ms. Wilkinson had not taken [REDACTED]

[REDACTED]
But that is immaterial to the issue here: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Jared

From: Stuart.Nash@hklaw.com <Stuart.Nash@hklaw.com>
Sent: Wednesday, June 2, 2021 11:45 AM
To: Cathy.Hinger@wbd-us.com; Jared P. Marx <JMarx@hwglaw.com>; Thomas Connolly <TConnolly@hwglaw.com>; john.brownlee@hklaw.com; Claire.Rauscher@wbd-us.com

Cc: Tom Mason <TMason@hwglaw.com>; Lela.Ames@wbd-us.com

Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

[REDACTED]
Jared, et al.:

I join Ms. Hinger in objecting to your [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

I also join Ms. Hinger in her opposition to your filing [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

I reiterate my objection, raised earlier this morning, that the filing of this pleading [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Finally, [REDACTED]
[REDACTED].

If you are committed to going forward with your pleading notwithstanding all of the above, we continue to expect the filing to be under seal.

Regards,

Stuart

From: Hinger, Cathy <Cathy.Hinger@wbd-us.com>

Sent: Wednesday, June 02, 2021 9:15 AM

To: Jared P. Marx <JMarx@hwglaw.com>; Nash, Stuart G (WAS - X75158)

<Stuart.Nash@hklaw.com>; Thomas Connolly <TConnolly@hwglaw.com>; Brownlee, John L (WAS - X71854, TYS - X78053) <john.brownlee@hklaw.com>; Rauscher, Claire <Claire.Rauscher@wbd-us.com>

Cc: Tom Mason <TMason@hwglaw.com>; Ames, Lela <Lela.Ames@wbd-us.com>

Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

[External email]

Jared – I did not consent to you filing a [REDACTED]

Best Regards,
Cathy Hinger

From: Jared P. Marx <JMarx@hwglaw.com>

Sent: Tuesday, June 1, 2021 10:59 PM

To: Hinger, Cathy <Cathy.Hinger@wbd-us.com>; Stuart.Nash@hklaw.com; Thomas Connolly <TConnolly@hwglaw.com>; john.brownlee@hklaw.com; Rauscher, Claire <Claire.Rauscher@wbd-us.com>

Cc: Tom Mason <TMason@hwglaw.com>; Ames, Lela <Lela.Ames@wbd-us.com>

Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

Stuart and Cathy – We disagree with your objections. But out of a desire to try to avoid further litigation, [REDACTED]

[REDACTED]

[REDACTED]

From: Hinger, Cathy <Cathy.Hinger@wbd-us.com>

Sent: Tuesday, June 1, 2021 5:17 PM

To: Stuart.Nash@hklaw.com; Thomas Connolly <TConnolly@hwglaw.com>; john.brownlee@hklaw.com; Rauscher, Claire <Claire.Rauscher@wbd-us.com>

Cc: Tom Mason <TMason@hwglaw.com>; Jared P. Marx <JMarx@hwglaw.com>; Ames, Lela <Lela.Ames@wbd-us.com>

Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

Tom:

Mr. Donovan opposes the substance of the motion to substitute. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As with the Team though, we will not oppose your motion to file this under seal.

Best Regards,
Cathy Hinger

Cathy Hinger
Partner
Womble Bond Dickinson (US) LLP

d: 202-857-4489
m: 703-585-3620
e: Cathy.Hinger@wbd-us.com

1200 Nineteenth Street, N.W.
Suite 500
Washington, DC 20036



womblebonddickinson.com



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From: Stuart.Nash@hklaw.com <Stuart.Nash@hklaw.com>
Sent: Tuesday, June 1, 2021 4:55 PM
To: TConnolly@hwglaw.com; john.brownlee@hklaw.com; Hinger, Cathy <Cathy.Hinger@wbd-us.com>; Rauscher, Claire <Claire.Rauscher@wbd-us.com>
Cc: TMason@hwglaw.com; JMarx@hwglaw.com
Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

Tom:

We oppose the motion.

Moreover, as attorneys for the Team we object, [REDACTED]

Putting all that to one side, however, the Donovan v. Wilkinson case has now been dismissed. The only remaining issue is what portion of the case will be unsealed, and thus there is no remaining issue upon which [REDACTED]

Finally, I have been made aware that [REDACTED]

To the extent that you are intent on going forward with this motion over our objection, we agree that the filing should be under seal.

Regards,

Stuart

From: Thomas Connolly <TConnolly@hwqlaw.com>
Sent: Monday, May 31, 2021 2:59 PM
To: Nash, Stuart G (WAS - X75158) <Stuart.Nash@hklaw.com>; Brownlee, John L (WAS - X71854, TYS - X78053) <john.brownlee@hklaw.com>; Hinger, Cathy <Cathy.Hinger@wbd-us.com>; Rauscher, Claire <Claire.Rauscher@wbd-us.com>
Cc: Tom Mason <TMason@hwqlaw.com>; Jared P. Marx <JMarx@hwqlaw.com>
Subject: FW: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

[External email]

All,

Given the Team's pending objections, several of which relate to the [REDACTED], we will be moving to substitute sealed exhibit W6 to our client's declaration in opposition to preliminary injunction. As Donovan's counsel know from our correspondence last year, in exhibit W6 we appended [REDACTED]

[REDACTED] Both conversations are relevant to this case and both were described in our opposition to preliminary injunction, but the one from July 21 documents [REDACTED].

As our draft motion makes clear, we are not asking to disclose these [REDACTED] to the public. We are providing them because Judge Trenga, and any other court asked to review this matter, should have access to them in the sealed record.

Our motion to substitute, and the corrected W6, are attached. Please let us know by 9am tomorrow your position on the motion to substitute. And regardless of your position on the motion, please confirm that you agree the filing should be under seal rather than accessible to the public.

Thanks,

Tom

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EXHIBIT 2

From: [Jared P. Marx](#)
To: ["Hinger, Cathy"](#); Stuart.Nash@hklaw.com; [Thomas Connolly](#); john.brownlee@hklaw.com; [Rauscher, Claire](#)
Cc: [Tom Mason](#); [Ames, Lela](#)
Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx
Date: Wednesday, June 2, 2021 12:27:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Cathy,

We changed our motion to a praecipe as a matter of comity, given the Team's objection to us submitting the [REDACTED] to the Court. [REDACTED]

On the issue of sealing, we presumed that

Jared

From: Hinger, Cathy <Cathy.Hinger@wbd-us.com>
Sent: Wednesday, June 2, 2021 9:15 AM
To: Jared P. Marx <JMarx@hwqlaw.com>; Stuart.Nash@hklaw.com; Thomas Connolly <TConnolly@hwqlaw.com>; john.brownlee@hklaw.com; Rauscher, Claire <Claire.Rauscher@wbd-us.com>
Cc: Tom Mason <TMason@hwqlaw.com>; Ames, Lela <Lela.Ames@wbd-us.com>
Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

Jared – I did not consent to you filing a

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Best Regards,
Cathy Hinger

From: Jared P. Marx <JMarx@hwglaw.com>
Sent: Tuesday, June 1, 2021 10:59 PM
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Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

Stuart and Cathy – We disagree with your objections. But out of a desire to try to avoid further litigation, [REDACTED]

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Subject: RE: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

Tom:

Mr. Donovan opposes the substance of the motion to substitute. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



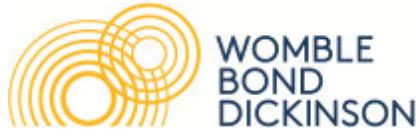
As with the Team though, we will not oppose your motion to file this under seal.

Best Regards,
Cathy Hinger

Cathy Hinger
Partner
Womble Bond Dickinson (US) LLP

d: 202-857-4489
m: 703-585-3620
e: Cathy.Hinger@wbd-us.com

1200 Nineteenth Street, N.W.
Suite 500
Washington, DC 20036



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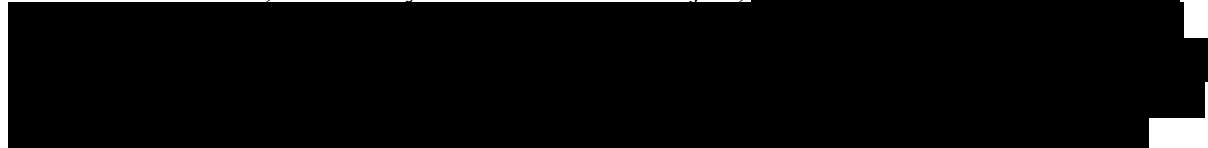
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Tom:

We oppose the motion.

Moreover, as attorneys for the Team we object, [REDACTED]

A large rectangular area of the page has been completely blacked out, likely redacting sensitive information.

[REDACTED]

Putting all that to one side, however, the Donovan v. Wilkinson case has now been dismissed. The only remaining issue is what portion of the case will be unsealed, and thus there is no remaining issue upon which [REDACTED]

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Cc: Tom Mason <TMason@hwglaw.com>; Jared P. Marx <JMarx@hwglaw.com>
Subject: FW: 2021-05-28 - Motion to substitute exhibit (ks edit) (002).docx

[External email]

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Thanks,

Tom

NOTE: This e-mail is from a law firm, Holland & Knight LLP ("H&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of H&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to H&K in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of H&K, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.